

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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In re BRIDGESTONE/FIRESTONE, INC.)	
ATX, ATX II, AND WILDERNESS TIRES)	Master File No. IP 00-9373-C-B/S
PRODUCTS LIABILITY LITIGATION)	MDL No. 1373
_____)	(centralized before Hon. Sarah Evans
—)	Barker, Chief Judge)
)	
THIS DOCUMENT RELATES TO ALL)	
ACTIONS)	

ORDER ON ORGANIZATIONAL STRUCTURE AND DISCOVERY

Appointment of Lead Counsel and Liaison Counsel. The Court has determined that the organization and management structure of the plaintiffs' litigation, including appointment of plaintiffs' counsel, as well as the efficient communication and coordination between the Court and all of plaintiffs' counsel, will be facilitated by the prompt appointment of Lead Counsel and Liaison Counsel. The Court hereby appoints, pursuant to the recommendation of the plaintiffs, Don Barrett of the Barrett Law Office as Lead Counsel for the class cases, and Victor Diaz, Jr. of Podhurst Orseck Josefsberg Eaton Meadow Olin & Perwin, P.A. and Mike Eidson of Colson Hicks Eidson as Co-Lead Counsel for the personal injury/death cases. The Court appoints William Winningham of Wilson, Kehoe and Winningham as Liaison Counsel for the personal injury/death cases and Irwin Levin of Cohen and Malad as Liaison Counsel for the class cases. Liaison Counsel are specifically charged with the responsibility for communications between the Court and other counsel, including the receipt and distribution of notices,

orders, motions, and briefs, advising parties of developments in the case, convening meetings of counsel, and otherwise assisting in the coordination of counsels' activities. Liaison Counsel are also charged with the further responsibilities set forth in this and subsequent orders of the Court.

Plaintiffs' Liaison Counsel are directed to submit a proposed management structure allocating and assigning supervisory duties to plaintiffs' counsel on or before November 30, 2000, for consideration at the December 6, 2000 hearing.

Preservation of Records and Other Evidence.

Documentary Evidence. Each party shall preserve all documents and other records containing information potentially relevant to the subject matter of this litigation. Subject to further order of the Court, parties may continue routine erasures of computerized data pursuant to existing programs, but they shall (1) immediately notify opposing counsel about such programs and (2) preserve any printouts of such data. Requests for relief from this directive will receive prompt attention from the Court.

Physical Evidence and Tangible Things. Each party shall also preserve any physical evidence or potential evidence and shall not conduct any testing that alters the physical evidence without notifying opposing counsel, and, unless counsel stipulate to the test, without obtaining the Court's permission to conduct the test. The provisions in the preceding sentence regarding testing apply only to physical evidence in particular personal injury/death cases, unless modified by subsequent order. Any need for preservation of physical evidence in the class cases shall be raised by subsequent, particularized motion(s). With respect to the preservation of recalled tires, the parties are ordered to confer promptly, to advise the Court whether agreement on this issue can be reached, and, if so, to submit a proposed order to the Court.

Presentation of Remand Motions to the Court. Liaison Counsel for plaintiffs in personal injury/death cases shall consult with plaintiffs' counsel and together shall identify for the Court no more than five cases in which motions for remand to state court on federal subject matter jurisdiction grounds have been filed or are expected to be filed. The five or fewer remand motions identified for the Court shall, as nearly as possible, be representative of the various remand issues raised in the personal injury/death cases in this MDL. Notwithstanding the foregoing instruction, one of the five or fewer motions may be a motion for remand to the transferor court for trial (based on grounds other than disagreement with the MDL Panel's transfer order) rather than a remand motion based on federal subject matter jurisdiction grounds. Liaison Counsel shall select the cases from among all related actions originally filed in this Court or transferred or removed to this Court, as well as from any tag-along actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.4 of Procedure of that Panel for MDL proceedings. Liaison Counsel shall submit to the Court on or before December 20, 2000, the names and individual case docket numbers of the five or fewer cases identified as representative of the remand issues in this MDL. The Court then will set a schedule for briefing or supplemental briefing of the remand motions in those cases and place those motions on an accelerated schedule for decision. In considering remand issues for identification to the Court, Liaison Counsel's attention is called to the decisions concerning choice of law in Eckstein v. Balcor Film Investors, 8 F.3d 1121 (7th Cir. 1993); In re Korean Air Lines Disaster of September 1, 1983, 829 F.2d 1171 (D.C. Cir. 1987); and In re Ford Motor Co. Bronco II Products Liability Litigation, 1996 WL 257570 (E.D. La. 1996).

Liaison Counsel for the class cases shall consult with counsel in the class action cases and apprise the Court, by December 20, 2000, of the status of all remand motions pending in the class cases.

Plan for Court's Consideration of Request for Injunctive Relief. Liaison Counsel for the class cases shall, after consultation with counsel in cases seeking injunctive relief, submit to the Court, by December 20, 2000, a proposal for the Court's expeditious consideration of requests for injunctive relief.

Partial Lifting of October 26, 2000 Order Staying Discovery. Parties in the personal injury/death cases may resume or begin discovery as set forth below. Permitted discovery is limited to case-specific discovery (e.g., depositions of eyewitnesses, family members of injured plaintiffs, and health care providers). It is recommended that local counsel for defendants be used to defend depositions. Officers of the Court will be available to resolve disputes concerning the scope of allowable discovery. Written submissions concerning discovery disputes are expected for all disputes that do not threaten to disrupt a deposition in progress.

Suspension of Certain Pretrial Deadlines. Except as expressly ordered by the Court in this and any future orders, all pretrial deadlines for filing motions and briefs and for completing discovery-related obligations that were established in the individual cases in or by the transferor courts are hereby suspended. The deadlines for filing responsive pleadings in both class and individual personal injury cases are also suspended pending further order of this Court. This Order does not apply to any motions filed originally in this Court following transfer.

It is so ORDERED this ____ day of November 2000.

SARAH EVANS BARKER, CHIEF JUDGE
United States District Court
Southern District of Indiana

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